No. 158

In the

Supreme Court of the United States

OCTOBER TERM, 1955

FROZEN FOOD EXPRESS,
Appellant,

v.

UNITED STATES AND INTERSTATE COMMERCE COMMISSION,
Appellee.

On Appeal from the United States District Court for the Southern District of Texas, Houston Division

BRIEF FOR THE APPELLANT

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OPINION BELOW

The Opinion of the United States District Court for the Southern District of Texas, Houston Division (Three-Judge Court, January 26, 1955) (R. 104-109), is reported at *128 Fed. Supp., page 374.*

JURISDICTION

The Judgment of the United States District Court for the Southern District of Texas, Houston Division, was entered January 26, 1955 (R. 104-109). Notice of Appeal was filed on April 20, 1955, in the District Court of the United States for the Southern District of Texas. The Jurisdiction of this Court rests on *Title 28, U. S. C., Sec. 1253* and *Sec. 2101(b)*.

QUESTIONS PRESENTED

Whether the District Court was in error in holding that the Report and Order of the Interstate Commerce Commission, made and entered April 13, 1951, No. MC-C-968, *Determination of Exempted Agricultural Commodities, 52 M. C. C. 511*, was not an order subject to judicial review; the Commission having determined in the said proceeding that certain specified commodities are unmanufactured agricultural commodities; and therefore within the exemption provided by Section 203(b)(6) of the Interstate Commerce Act [*29 U. S. C. (b) (6)*]; and also having determined therein that certain other commodities are manufactured products of agricultural commodities and, therefore, not within the said exemption, and that motor common and contract carriers are required to have operating authority issued by the Commission in order to transport such products in interstate commerce for compensation?

STATUTES INVOLVED

49 U. S. C. 303 (b) (6) provided as pertains to the issues involved in this case:

> "Nothing in this Chapter, except the provisions of 304 of this Title relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be construed to include (6) motor vehicles used in carrying property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property or passengers for compensation."

STATEMENT

Appellant, Frozen Food Express, is a common carrier by motor vehicle in interstate and foreign commerce and is the owner and holder of certificates of public convenience and necessity, MC 108207, issued by the Interstate Commerce Commission under the provisions of the Interstate Commerce Act, Part II, authorizing the transportation of certain commodities between points and places in the States of Arizona, Arkansas, California, Colorado, Illinois, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Nebraska, New Mexico, Oklahoma, Tennessee, Texas and Wisconsin.

Appellant has transported, in addition to those commodities it is authorized to transport by the Interstate Commerce Commission as a common carrier motor carrier, certain commodities consisting of agricultural commodities

(not including manufactured products thereof) between various points in the United States as authorized by 49 U. S. C. 303(b)(6) between various points in the United States. On each of the occasions when the vehicles of Appellant were transporting agricultural commodities (not including manufactured products thereof), such motor vehicles were not used in carrying any other property or passengers for compensation. The items appellant transported consisting of agricultural commodities, included but were not limited to fresh meat, frozen meat, fresh dressed poultry and frozen dressed poultry.

On April 13, 1951, the Interstate Commerce Commission entered an order in Docket No. MC-C-968, entitled "*Determination of Exempted Agricultural Commodities*," *52 M. C. C. 511* (R. 30-102). Appellant brought this complaint in the Court below attacking this order of the Interstate Commerce Commission because the Interstate Commerce Commission had sharply restricted the right to transport agricultural commodities (not including manufactured products thereof) after Congress had specifically exempted agricultural commodities from regulation under the Interstate Commerce Act, as amended.

Appellant brought this action in the United States District Court for the Southern District of Texas, Houston Division, under *Title 28, U. S. C., Sections 1337, 1398, et seq.*, and *Title 5, U. S. C., Section 1009*. The District Court refused to consider the Appeal and dismissed it on the ground that the Report and Order of the Interstate Com-

merce Commission, dated April 13, 1951, was not a Report and Order subject to judicial review.

SUMMARY OF ARGUMENT

The provision "motor vehicles used in carrying property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" as employed in the statute is clear that Congress intended to exempt from regulation the named commodities. Here is a plain legislative purpose clearly expressed, and there is no room for application of the rules of ejusdem generis, or narrow construction. The Interstate Commerce Commission, by application of technical rules of construction, defeated the legislative intent, and the Court below should have found that the Determination Order of the Commission was beyond the Commission's powers and authority and should have been set aside.

ARGUMENT

I.

The historical background of the legislation demonstrates that Congress intended to exempt from the provisions of the Motor Carrier Act, Part II, Transportation for hire of commodities including agricultural and horticultural commodities (not including manufactured products thereof), and left no discretion to the Interstate Commerce Commission to designate what commodities are to be exempted.

Originally the Motor Carrier Act which was drafted by the late Charles F. Eastman was introduced by Senator Wheeler as S 1629. The Committee on Interstate Commerce of the United States Senate reported the Bill out of the Committee by Senate Report 482, *79 C. R. 5485*. The original Bill did not refer to the matter of exemptions. An amendment was placed in the Bill containing an exemption for "casual or occasional or reciprocal transportation" which was intended to exempt farmers and others who occasionally hauled for hire, *79 C. R. 5650, 5651 and 5652*. The Senate passed a Bill with this exemption but without a specific exemption covering farmers or farm commodities, *79 C. R. 5737*. After it was sent to the House of Representatives, it was reported by the House Interstate and Foreign Commerce Committee, accompanied by House Report 1645, *79 C. R. 11,813*. That House Committee inserted an amendment which exempted "motor vehicles when used exclusively in carrying livestock or unprocessed agricultural products." The Bill was debated on the floor of the House on July 31, 1935, *79 C. R. 12,204-12,237*. The agricultural exemption as it then existed was debated. Mr. Sadowski stated that "unprocessed farm commodities" meant "anything that has not been canned or manufactured or processed," and said it included cream and milk, *79 C. R. 12,205*. At *79 C. R. 12,218*, Mr. Jones said he expected to offer an amendment which would exempt "motor vehicle controlled and operated by any farmer and used in the transportation of his agricultural commodities and products thereof, or in the transportation of supplies to

his farms * * *.". That this amendment would allow the farmer to haul his crop to market and haul his supplies back home. This was objected to on the ground that it was covered by the exemption of casual or occasional transportation. Mr. Pettengill then offered an amendment to the Committee amendment by striking out the words "unprocessed agricultural products" and inserting "agricultural commodities not including manufactured products thereof," *79 C. R. 12,220.* Mr. Whittington proposed an amendment that would strike out any language that would give the Interstate Commerce Commission discretionary power to nullify certain exemptions of the Act. *79 C. R. 12,225.* This was objected to on the grounds that the Interstate Commerce Commission should have the discretion relative to those exemptions in order to properly administer the Act. A substitute amendment for the one offered by Mr. Whittington was offered by Mr. Pettengill, *79 C. R. 12,226*, that made the exemptions relative to agricultural commodities mandatory.

The Interstate Commerce Commission in the *Determination of Exempted Agricultural Commodities, 52 M. C. C. 511*, took cognizance of the fact that the exemption had broadened the scope of commodities that could be transported as exempt items. In its Order the Commission said in regard to the amendment above cited:

> "The history of the legislation is not wholly clear as to the intent of Congress, except that the partial exemption was to aid the farmer. That the term in-

> cludes, in addition to the raw farm products, commodities that have been treated or processed to an extent beyond such raw products state, is made plain by the explanation of the chairman of the subcommittee in charge of the legislation that the exemption was intended to cover pasteurized milk and ginned cotton. It is thus apparent that the Congress intended the exemption to extend to commodities produced by the farmer in the natural state and to a limited extent those further treated or processed. In the absence of any declaration by Congress as to what other commodities were to be embraced within the term, it is necessary to look to other sources."

52 M. C. C. 516-517.

There is little doubt that it was the deliberate intention of Congress in adopting the language in the amendment "agricultural commodities (not including manufactured products thereof)" to broaden the interpretation of unprocessed agricultural products and to allow certain agricultural products to be transported without the restriction of the regulation as applicable to other for hire operations under the Motor Carrier Act. It is a well established principle of law that an act should be interpreted as to attain the legislative goal:

> "Words generally have different shades of meaning; and are to be construed if reasonably possible to effectuate the intent of the lawmakers; and this meaning in particular instances is to be arrived at not only by a consideration of the words themselves, but by considering, as well, the context, the purposes of the law, and the circumstances under which the words were employed."

Puerto Rico v. Shell Company, 302 U. S. 253 and 258.

The Interstate Commerce Commission is thoroughly familiar with the fact that certain recommendations were made by the Commission to the Senate Committee on Interstate Commerce to place a more restricted meaning on the exemptions. These included that the exemptions would only apply on "agricultural products first movement from the point of production to the point of sale by the producer or to the point of manufacture or trans-shipment." Congress did not adopt such recommendation as offered by the Commission in regard to these particular items. We believe this failure to adopt such recommendation emphasizes our position to the effect that the statute term "agricultural commodities" is a broad term which includes processed agricultural commodities so long as they a. not manufactured. See also *Federal Trade Commission v. Bunte Bros., 312 U. S. 349-353.*

There also was introduced in the *81st Congress, H. R. 7547*, which would have specifically limited the agricultural exemption in the case of poultry to "live poultry," but after extensive hearing, no action was taken on this Bill.

More recently in the *82nd Congress* there was introduced *Senate Bill 2357* which would have restricted the applicability of the agricultural exemptions to motor vehicles "controlled and operated by any farmer" and to come within the proposed exemption, the agricultural commodities could not have been "processed to a greater extent than is cus-

tomarily done by farmers," *Senate Hearing S. 2357, page 425.* This restriction was not adopted. Other clarifying amendments were adopted to correct the narrow interpretation of agricultural commodities that the Commission had heretofore made particularly with respect to horticultural commodities.

It is appellant's belief that in order to give the effect that Congress intended, to-wit: a more liberal construction of the exemptions, that the term "agricultural commodities (not including manufactured products thereof)" must be applicable to fresh meat, frozen meat, fresh dressed poultry and frozen dressed poultry.[1]

Likewise in the case of *Interstate Commerce Commission v. Allen E. Kroblin, Inc., 113 Supp. 599 (N. D. Iowa)*, the Court said:

> "There are two features that stand out most predominantly in the voluminous legislative history relating to amendments made or proposed to Section 203(b)(6). One feature is that every amendment that Congress has made to it has broadened and liberalized its provisions in favor of exemptions, and the other feature is that although often importuned to do so,

[1]Senate Report No. 1039, 82nd Cong. 1st Sess., p. 13, expresses the view that the agricultural exemption is for the "limited purpose of exempting from general regulation the farm-to-market or wharf-to-market transportation by motor carrier for the farmer or for the fisherman." However, that statement does not represent the view of any Congressional Committee. The foreword to the report specifically states that the issuance of the report is authorized "with reservations" and that the conclusions and recommendations which are extremely controversial * * * represent the views of the authors and have neither been approved nor disapproved by the Senate Committee on Interstate and Foreign Commerce." Id. at p. iii. Moreover, the report recognizes that the opinion expressed as to the scope of the agricultural exemption is contrary to the administrative and judicial interpretations of the agricultural exemption. Id. at p. 14.

> Congress has uniformly and steadfastly refused or rejected amendments which would either directly or indirectly have denied the benefits of the exemptions contained therein to truckers who are engaged in operations similar to that of the defendant herein."

II.

The effect of the opinion of the Court below holding that the Report and Order of the Interstate Commerce Commission of April 13, 1951, is not an "Order" subject to judicial review leaves an area of confusion as to commodities that can be transported without regulation from the Interstate Commerce Commission and some specific definite and affirmative pronouncement should be made to clear up the uncertainty that now exists in motor transportation.

The motor carrier industry generally has regarded the Commission's decision in Docket MC-C-968 as restricting and defining the meaning and scope of the partial exemptions accorded by Section 203(b)(6).

In Docket No. MC-C-1605, *East Texas Motor Freight Lines, Inc., et al. v. Frozen Food Express* (R38), the Intestate Commerce Commission said (R. 45):

> "The facts before us in this proceeding are more complete as they relate to this particular issue than those before us in the *Exemption* case, but they contain nothing to warrant any different conclusions. On the contrary, they confirm the conclusions there reached."

Also the Commission found in Docket No. MC-C-1605 (R. 38, 45):

> "Until a final decision contrary to the findings in the *Exemption* case is reached by the Courts, we adhere to the conclusion that the transportation of fresh and frozen meats and fresh and frozen dressed poultry are subject to the certificate and permit requirements of the Act."

Motor carriers who transport these commodities without authority have been prosecuted by the Interstate Commerce Commission for violating the Act, or the Interstate Commerce Commission has sought to enjoin their operations. Appellant was faced with the identical problem when it was notified by the Interstate Commerce Commission on the 13th of July, 1954 (see R. 47-48) that it was required within 45 days from the date of the Order to cease and desist from all motor carrier operations in interstate or foreign commerce of the character found to be unlawful. Appellant on the one hand is confronted with the interpretative rules and the declaratory orders of the Interstate Commerce Commission in the Exempt Commodity Order, and on the other the statement of the Trial Court that it is not a reviewable order. Appellant in its complaint (R. 4, 5) sought to enjoin the Interstate Commerce Commission from enforcing or recognizing the findings and order in the Determination case, inviting the Court's attention to the fact that the Commission was threatening to file complaints against it for transporting exempt commodities. The Court below (R. 55) found there was no basis for

the intervention of a Court of Equity and that complainant (appellant) would have an adequate remedy in the event of such interference. In other words the burden would be upon appellant to go back into a United States Federal District Court and seek injunctive relief against the Interstate Commerce Commission when it transported items and commodities held by the Commission not to be exempted in their finding and order of the Determination Case. This will have the inevitable result of a multiplicity of suits, both by individual motor carriers who seek to transport exempted commodities and by the Interstate Commerce Commission in bringing suits against individual motor carriers for injunctions or penalties as provided in Section 222(a)(b) of the Act, *49 U. S. C. 322(a) and (b).*

The reviewability of the order entered by the Commission in Docket No. MC-C-968, *Determination of Exempted Agricultural Commodities, 52 M. C. C. 511* (R, 32, 95), is authorized under the provisions of *5 U. S. C. 1009(a)* which provides:

> "Any person suffering legal wrong because of any agency action or adversely affected or aggrieved by such action within the meaning of any relevant statute, shall be entitled to judicial review thereof."

49 U. S. C. 17(9) specifically provides for judicial relief from decisions, etc., of the Interstate Commerce Commission.

In *Columbia Broadcasting System v. U. S., 316, 407*, the Federal Communications Communication after investiga-

tion issued a set of rules which it stated it would follow in exercising its licensing power, but which its report characterized as an announcement of policy *(316 U. S. 422)*. Plaintiff brought suit to enjoin the Commission's order, alleging among other things that the Communications Commission did not have authority to issue any such rules, and that their enforcement would cause it irreparable injury. *(316 U. S. 408-409.)* In its discussion of the reviewability of the Communication Commission's Order, the Court stated, *316 U. S. 417*:

> "* * * Such regulations which affect or determine rights generally, even though not directed to any particular person or corporation, when lawfully promulgated by the Interstate Commerce Commission, have the force of law and are orders reviewable under the Urgent Deficiencies Act. Assigned Car Cases (United States v. Berwind-White Coal Min. Co.), 274 U. S. 564, 71 L. Ed. 1204, 47 S. Ct. 727; United States v. Baltimore & O. R. Co., 293 U. S. 454, 79 L. Ed. 587, 55 S. Ct. 268. And regulations of like character, by which the Communications Commission has prescribed generally the records and accounts to be kept by telephone companies subject to its jurisdiction, are similarly reviewable under section 402(a). American Teleph. & Teleg. Co. v. United States, 299 U. S. 232, 81 L. Ed. 142, 57 S. Ct. 170."

And the Court further said *(316 U. S. 419-420)*:

> "The purposes sought to be accomplished by section 402(a) and the Urgent Deficiencies Act would be defeated if a suitor were unable to resort to them to avoid reasonably anticipated irreparable injury resulting from such legal consequences of the Commis-

sion's order, merely because the Commission as yet has neither refused to renew a license, as the regulations require, nor cancelled a license, as the regulations permit. Such an argument addressed to the form rather than the substance of the order was rejected in Powell v. United States, 300 U. S. 276, 81 L. Ed. 643, 57 S. Ct. 470, supra; cf. American Federation of Labor v. National Labor Relations Bd., supra (308 U. S. 408, 84 L. Ed. 351, S. Ct. 300). The Powell Case likewise repudiates the suggestion that merely because the order is not in terms addressed to those whose rights are affected, they cannot seek its review. See also Western Pacific California R. Co. v. Southern P. Co., 284 U. S. 47, 76 L. Ed. 160, 52 S. Ct. 56; Claiborne-Annapolis Ferry Co. v. United States, 285 U. S. 382, 76 L. Ed 808, 52 S. Ct. 440."

The Court concluded its opinion with the following statement *(316 U. S. 425)*:

"* * * The ultimate test of reviewability is not to be found in an over-refined technique, but in the need of the review to protect from the irreparable injury threatened in the exceptional case by administrative rulings which attach legal consequences to action taken in advance of other hearings and adjudications that may follow, the results of which the regulations purport to control."

The *Columbia Broadcasting* case, supra, was decided prior to the enactment of the Administrative Procedure Act *(5 U. S. C. 1001)*. The purpose and effect of that Act is well stated in *American President Lines v. Federal Maritime Board, 112 F. Supp. 346 at 349*:

"Before closing the discussion of this aspect of the litigation, it would seem pertinent to advert to the

fact that the Administrative Procedure Act is no mere codification of pre-existing law. If that were all that was accomplished by the enactment of this far-reaching statute, the prodigious labor that had been put into it, would have gone for naught. Contemporary discussion and debate clearly demonstrate that one of the main objectives of the Administration Procedure Act was to extend the right of judicial review. One of its purposes was to enlarge the authority of the courts to check illegal and arbitrary administrative action. The courts stand between the citizen and administrative officers. The statute created no new remedies but contemplated the use of established types of proceedings to achieve its ends. On the other hand, it broadened the scope of judicial review and it enlarged the class of persons who were given standing to invoke the judicial process. The doctrine of Alabama Power Co. v. Ickes, supra, is not applicable to proceedings under the Administrative Procedure Act. In the light of the foregoing considerations, the conclusion follows that the plaintiff has a standing to maintain this action."

Sections 2(a) and 4(c) of the Administrative Procedure Act (5. U. S. C. 1001(a) and 1003(c) give administrative agencies, including the Interstate Commerce Commission, power to make interpretative rulings. *Sections 2(d) and 5(d) of that Act [5 U. S. C. 1001 (d) and 1004(d)]* give the Commission power to make declaratory adjudications and orders. Section 5(d) reads as follows:

"(d) Declaratory orders.—The agency is authorized in its sound discretion, with like effect as in the case of other orders, to issue a declaratory order to terminate a controversy or remove uncertainty."

In the *Attorney General's Manual on the Administrative Procedure Act* it is stated *(p. 59)* that:

> "* * * For example, where an agency is authorized after hearing to issue orders to cease and desist from specified illegal conduct, it may, under Section 5(d), if it otherwise has jurisdiction, issue a declaratory order declaring whether or not specified facts constitute illegal conduct."

Section 10(a) of the Administrative Procedure Act [5 U. S. C. 1009(a)] gives the right of judicial review to "any person suffering legal wrong because of any agency action, or adversely affected or aggrieved by such action within the meaning of any relevant statute." *Section 10(b) [5 U. S. C. 1009(b)]* provides that "The form of proceeding for judicial review shall be any special statutory review proceeding relevant to the subject matter in any court specified by statute * * *."

The language of section 10(b) makes it clear that the Court below was the proper court to review the order assailed in the instant case. It is likewise clear that plaintiff is an aggrieved party within the meaning of the Interstate Commerce Act and the Administrative Procedure Act [*49 U. S. C. 13(l), 28 U. S. C. 1336 and 2323*]. See *Interstate Commerce Commission v. Oregon-Washington Railroad & Navigation Co., 288 U. S. 14, 23-25; Chicago, St. P. M. & O. Ry. Co. v. United States, 50 F. Supp. 249, affirmed 322 U. S. 1.*

In *Federal Communications Commission v. Sanders Bros., 309 U. S. 470,* the Supreme Court had before it a

person aggrieved within the meaning of the Communications Act. Section 402(b) of this Act gives the applicant or "any other person aggrieved or whose interests are adversely affected by any decision of the Commission granting or refusing any such application," the right to appeal. The Court on page 477 of the Opinion made the following statement:

> "Congress had some purpose in enacting section 402(b)(2). It may have been of opinion that one likely to be financially injured by the issue of a license would be the only person having a sufficient interest to bring to the attention of the appellate court errors of law in the action of the Commission in granting the license. It is within the power of Congress to confer such standing to prosecute an appeal."

Section 10(c) of the Administrative Procedure Act [5 U. S. C. 1009(c)] provides that "Every agency action made reviewable by statute and every final agency action for which there is no other adequate remedy in any court shall be subject to judicial review. * * *."

28 U. S. C. 1336 provides for judicial review of final orders of the Interstate Commerce Commission, and there can be no doubt of the fact that the order entered in Docket No. MC-C-968 was a final order. It was final because it ended the proceeding and because the very purpose of declaratory orders is "to terminate a controversy or remove uncertainty" *[5 U. S. C. 1004(d)]*. The fact that the order was a declaratory order does not affect its reviewability. *Section 5(d) of the Administrative Procedure Act*

provides that declaratory orders have "like effect as in the case of other orders."

In *El Dorado Oil Works v. United States, 328 U. S. 12, 18 and 19*, this Honorable Court held that the order of the Interstate Commerce Commission, being far more than an abstract declaration, and that legal consequences would follow which would finally fix a right or obligation, were more than a mere "stage in an incomplete process of administrative adjudication" and that the Order was reviewable by a District Court of Three Judges. In the *El Dorado* case as in the instant case the Interstate Commerce Commission discontinued further proceedings.

We submit, therefore, that the order of the Interstate Commerce Commission in the Determination of Exempted *Agricultural Commodities* is an appealable order and the Court below erred in not giving it that effect. We further feel that we are entitled to a judicial determination of the plain legislative intent of Section 203(b)(6) of the Interstate Commerce Act.

In the absence of a judicial determination of the power and authority of the Interstate Commerce Commission to define commodities constituting agricultural commodities, an area of uncertainty, disagreement and confusion will continue to exist in the motor transportation industry. It will result in numerous lawsuits or prosecutions and suits for injunctions both by and against the Interstate Commerce Commission concerning the interpretation of the *Commission's Order in the Determination* case. Typical of such areas of dispute and disagreement are reflected in

Commerce Commission v. Yeary, 104 Fed. Sup., 245, 202 Fed. 2d 151 (C. C. A. 6); Interstate Commerce Commission v. Kroblin, 113 Fed. Supp., 599, 212 Fed. 2d 555 (C. C. A. 8), certiorari denied October 14, 1954; and *Frozen Food Express v. Interstate Commerce Commission, 128 Fed. Supp., page 374,* Three-Judge Statutory Court, United States District Court, Southern District of Texas, Houston Division. Congress refused to accept an amendment to the Motor Carrier Act which would give the Interstate Commerce Commission discretionary power to nullify certain exemptions of the Act, *79 C. R. 12,225.* It adopted an amendment making the exemptions relative to agricultural commodities mandatory, *79 C. R. 12,226.* We respectfully suggest, therefore, that the *Determination of Exempted Agricultural Commodities Order* is an appealable Order and that Congress having specifically refused to give the Interstate Commerce Commission any authority to nullify certain exemptions, that the Interstate Commerce Commission is without power and authority to enter any order that restricts or curtails the transportation of agricultural commodities (not including manufactured products thereof).

CONCLUSION

For the reasons stated, it is respectfully submitted that the judgment of the Court below should be reversed.

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PROOF OF SERVICE

I, Carl L. Phinney, attorney for Frozen Food Express, appellant herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the 30th day of December, 1955, I served copies of the foregoing Brief for Appellant on the several parties hereto as follows:

1. On the United States, by mailing a copy in a duly addressed envelope, with airmail postage prepaid, to James E. Kilday and Charles S. Sullivan, Jr., Esquires, Special Assistants to the Attorney General, U. S. Department of Justice, Washington 25, D. C.; Malcolm R. Wilkey, Esq., U. S. Attorney, Federal Building, Houston, Texas; and by mailing a copy in a duly addressed envelope with airmail postage prepaid to The Solicitor General, Department of Justice, Washington 25, D. C.

2. On the Interstate Commerce Commission by mailing a copy, in a duly addressed envelope with airmail postage prepaid, to Edward M. Reidy and Leo H. Pou, Esquires, at the offices of the Interstate Commerce Commission, Washington 25, D. C.

3. On the following attorneys of record of the intervening complainants, by mailing copies in duly addressed envelopes, with airmail postage prepaid, to Charles W. Bucey, and Walter D. Matson, Esquires, U. S. Department of Agriculture, Washington 25, D. C.

4. On the following attorneys of record for the intervening defendants, by mailing copies in duly addressed

envelopes, with airmail postage prepaid, to Peter T. Beardsley and Fritz Kahn, Esquires, American Trucking Association, Inc., 1424 16th St. N. W., Washington 6, D. C.; to Rollo E. Kidwell, Esq., 305 Empire Bank Bldg., Dallas, Texas; Lee Reeder, Esq., 1012 Baltimore Avenue, Kansas City 5, Missouri; James W. Nisbet, 280 Union Station Building, Chicago 6, Illinois; Charles P. Reynolds, Esq., Shoreham Building, Washington 5, D. C.; Carl Helmetag, Esq., Pennsylvania Railroad, 1740 Suburban Station Building, Philadelphia, Pa.; Edwin N. Bell, Esq., Esperson Building, Houston, Texas; J. C. Hutcheson, III, Esq., Esperson Bldg., Houston, Texas; Clarence D. Todd and Dale C. Dillon, Esquires, 944 Washington Bldg., Washington 5, D. C.

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